

Sixth Appellate District

San Jose, California

Wednesday, October 7, 1998 (continued)

H018075 IN RE SAVANNAH B., A Person Coming Under the Juvenile Court Law

The judgment is affirmed. (not published)
(Premo, J.; We concur: Cottle, P.J., Elia, J.)
Filed October 7, 1998

H017730 IN RE ISAAC A., A MINOR

The judgment is affirmed. (not published)
(Premo, J.; We concur: Cottle, P.J., Elia, J.)
Filed October 7, 1998

THURSDAY, OCTOBER 8, 1998

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J., Wunderlich, J.; and W. Magsaysay, Deputy Clerk.

H017497 COUNTY OF SAN BENITO v. VELEZ

Cause called and argued by Mike Whitaker, Deputy District Attorney, appearing for respondent. Appellant in propria persona did not appear. Cause ordered submitted.

H017422 BURTONI v. STULBERG

Cause called and argued by Nancy Eichler appearing for appellant Jac Burton Stulberg and by Michael A. Jacques appearing for appellant Albert Burtoni. Cause ordered submitted.

H017248 DERRICK CORPORATION, et al. v. CITIREALTY CORPORATION

Cause is called. Bruce E. Stanton appearing for appellants is present. There is no appearance for respondent, Cityrealty Corp. A stipulation for dismissal of the appeal is presented and filed in open court. The stipulation for dismissal of the appeal is taken under submission.

H017402 TURPIN v. MONTEREY JAGUAR, etc., et al.

Cause called and argued by Hugo N. Gerstl appearing for appellant and by Andrew H. Swartz appearing for respondents. Cause ordered submitted.

H017820 LOCAL LARGE, INC. v. SUPERIOR COURT; CUCUZZA FAMILY PARTNERSHIP, et al.

Cause called and argued by Carl McConnell appearing for real parties in interests and by John Marshall Collins appearing for petitioner. Cause ordered submitted.

Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

Thursday, October 8, 1998 (continued)

The Court reconvened at 1:30 p.m in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Premo, Acting P.J.; Elia, J., Wunderlich, J.; and Nancy M. Olea, Deputy Clerk.

H017606 CHAI v. PARADIGM TECHNOLOGY

Cause called and argued by Guy Mailly appearing for appellant and by Gregg L. Johnson appearing for respondent. Cause ordered submitted.

H017154 PENINSULA TRAVEL, et al. v. FIREMAN'S FUND INSURANCE

Cause called and argued by John B. Keating appearing for appellants and by Charlotte Hemker-Smith appearing for respondents. Cause ordered submitted.

H017598 WANG, et al. v. WILSON, SONSINI, GOODRICH & ROSATTI, et al.

Cause called and argued by Sean M. Seleque appearing for appellants, William Gwire appearing for respondent, Phillip Wang, and Kee Cheng appearing in pro per. Cause ordered submitted.

H016978 SMYSER, et al. v. BERG, et al.

Cause called and argued by Michael Freeman appearing for appellants and by John W. Clark appearing for respondent. Cause ordered submitted. Court is adjourned.

H017387 PEOPLE v. BROOKS

The judgment below is hereby modified by the following addition: it is ordered that the use of the conviction of Vehicle Code sections 14601.1 and 14601.2 be stayed pending the finality of the judgment, the stay to become permanent when service of sentence is completed. The matter is remanded to the trial court with directions to prepare an amended abstract of the record, reflecting the modified judgment. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed October 8, 1998

H015908 PEOPLE v. MARTINEZ

The judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed October 8, 1998

Sixth Appellate District

San Jose, California

Thursday, October 8, 1998 (continued)

H018042 PEOPLE v. WHITE

The judgment is vacated. This matter is remanded to the trial court so that it can conduct a hearing in defense counsel's and defendant's presence, unless defendant's presence is otherwise validly waived, to determine whether to exercise its discretion under Penal Code section 1385 to strike or dismiss one or both of the two valid prior conviction findings under the three strikes law. (People v. Rodriguez (1998) 17 Cal.4th 253, 259-260.) The trial court is ordered to strike its previous finding that defendant's 1976 conviction for assault with force likely to produce great bodily injury (Pen. Code, § 245) constituted a prior serious felony conviction under the three strikes law. If the trial court decides that it would not have stricken either of the two remaining findings, it shall reinstate the judgment without the stricken finding as to defendant's 1976 assault conviction. If the trial court decides that it would have stricken either or both of the two remaining findings, it shall do so and then resentence defendant accordingly. (not published)

(Cottle, P.J.; We concur: Premo, J., Elia, J.)

Filed October 8, 1998

H018442 PEOPLE v. ALEXANDER

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)

Filed October 8, 1998

H017722 PEOPLE v. ZAMORA

Counsel's motion to withdraw is denied. The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)

Filed October 8, 1998

H016033 PEOPLE v. ACEVEDO

The judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed October 8, 1998

FRIDAY, OCTOBER 9, 1998

H017424 PEOPLE v. BARAY

The order of dismissal is reversed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed October 9, 1998

Sixth Appellate District

San Jose, California

Friday, October 9, 1998 (continued)

H018027 PEOPLE v. WOODS

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed October 9, 1998

H017502 PEOPLE v. LEWIS

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed October 9, 1998

H017920 PEOPLE v. MYERS

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed October 9, 1998

H018466 PEOPLE v. SIMONETTI

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed October 9, 1998

H015385 PEOPLE v. TRAN, et al.

The judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed October 9, 1998

H018133 PEOPLE v. CORTEZ

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)
Filed October 9, 1998

H016693 PEOPLE v. VARGAS

By the Court*:

Appellant's petition for rehearing is denied.
Dated October 9, 1998 Cottle, P.J.
Dated Cottle, P.J., Bamattre-Manoukian, J., and Mihara, J.